IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

CRP.No. 1066 of 2006()

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(AGAINST ORDER OF THE TALUK LAND BOARD,ERNAD DT. 30.6.87 IN CEILING CASE NO: CRI/80/SM/C-7)

REVN. PETITIONER: CLAIMANTS:

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1. THANKAYATHIL ABOOBACKER,
   S/O.SAIDALI, THANKAYATHIL HOUSE,
   ANAKKAYAM P.O., MALAPPURAM DISTRICT.

2. AYSHA,
   W/O.LATE CHACKALAKUNNAN MUHAMMAD.

3. ABDUL BARI,
   S/O.LATE CHAKALAKUNNAN MUHAMMED.

4. FATHIMA SUHARA,
   D/O.LATE CHACKALAKUNNAN MUHAMMED.

5. JAMEELA,
   D/O.CHACKALAKUNNAN MUHAMMED.

6. KHADEEJA,
   D/O.LAT LCHACKALAKUNNAN MUHAMMAED.
   (PETITIONERS 2 TO 6 ARE RESIDING AT
   CHACKALAKUNNAN HOUSE, ARAKKAYAM P.O.,
   MALAPPURAM DISTRICT).

BY ADV. SRI.P.M.POULOSE

RESPONDENTS:

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1. TALUK LAND BOARD ERNAD,
   REPRESENTED BY ITS CHAIRMAN.

2. TAHSILDAR, ERNAD TALUK,
   MALAPPURAM DISTRICT.

3. VILLAGE OFFICER,
   ANAKKAYAM VILLAGE,
   MALAPPURAM DISTRICT.

4. STATE OF KERALA, REPRESENTED BY
   CHIEF SECRETARY, GOVERNMENT SECRETARIAT,

THIRUVANANTHAPURAM.

5. KOORIMANNIL VALIYAMANNILKHALID
   ANAKKAYAM P.O.
   MALAPPURAM DIST.

BY GOVERNMENT PLEADER SMT. R.BINDU

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 13/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A. 3709/06 IN C.R.P. 1066/06

DISMISSED

13.6.2007 SD/- M.N.KRISHNAN, JUDGE

jj /TRUE COPY/

P.S.TO JUDGE

**M.N. KRISHNAN, J.**

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**C.R.P. No. 1066 OF 2006 E**
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**Dated this the 13th June, 2007**

**O R D E R**

This revision petition is filed by Shri. Thankayathil Aboobacker and the legal representatives of Chackalakunnan Muhammed. Shri. Aboobacker claimed tenancy right with respect of 2.50 acres comprised in survey No. 335 and Shri. Muhammed claimed 2.85 acres comprised in the very same survey number. Both the claimants relied upon the certificate of purchase issued by the Land Tribunal III, Malappuram. The order of the Land Board also reveals that the said documents had been produced before the Land Board. The Taluk Land Board rejected the contention of the claimants on the ground that they have not produced any further evidence in support of the claim. It has to be remembered that the Land Tribunal constituted under the Land Reforms Act is the competent and statutory authority to find out the claim with respect to fixity of tenure enumerated under Section 72 of the Kerala

Land Reforms Act. Section 72K also states that a certificate of purchase issued by the Land Tribunal shall be conclusive proof of tenancy. The function of the Taluk Land Board and that of the Land Tribunal are different and they work in different spheres. But it will be an integral part in a Taluk Land Board case to consider the certificate of purchase, because if a tenant is entitled to fixity of tenure that should not be taken into consideration for fixing the ceiling limit of the landlord. The Apex Court in the decision reported in ***Mathew v. Taluk Land Board*** (1979 KLT 601) had considered about the right of the Taluk Land Board to consider the question of tenancy. A perusal of the said decision would indicate the parameters as well as the entitlement of the Taluk Land Board to ignore a certificate of purchase issued by the Land Tribunal. The Apex Court had made it clear that there should be reason to show that it is inaccurate on the face of the record or is obtained by fraud. So when a document issued by a competent authority is produced and that is attempted to be sidelined then the burden is on that authority who wants to nullify the effect of that order

to give cogent reasons for the same or to prima facie establish and satisfy that the said order is inaccurate on the face of the record or is obtained by fraud. Without mentioning any of these things just making a statement that no other document is produced is not the correct approach. Therefore, the order of the Taluk Land Board suffers from serious infirmity so far as it relates to the revision petitioners are concerned and therefore it is set aside. The Taluk Land Board is directed to reconsider the claim of tenancy set up by the revision petitioners strictly in accordance with law after affording opportunity to the revision petitioners herein to adduce further evidence, if necessary, and after hearing them. The matter is remitted back and the parties are directed to appear before the Taluk Land Board on 1-8-2007 and till the disposal of the case the lands of the revision petitioners shall not be taken surrender of by the Government.

**M.N. KRISHNAN**
**JUDGE**

jan/